



Permanent Select Committee
on Intelligence
U.S. House of Representatives

September 10, 2019

The Honorable Joseph Maguire
Acting Director of National Intelligence
Office of the Director of National Intelligence
Washington, D.C. 20511

Dear Acting Director Maguire:

The House Permanent Select Committee on Intelligence (“Committee”) has learned that, contrary to your express obligations under the law, you are withholding from the Committee an authorized and protected whistleblower disclosure involving “a serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information.”¹

On August 26, 2019, consistent with the procedures in the Intelligence Community Whistleblower Protection Act (“ICWPA”), the Inspector General of the Intelligence Community (“ICIG”) transmitted to you a whistleblower disclosure intended for Congress, which an individual within the Intelligence Community lawfully submitted to the ICIG on August 12, 2019. Based on a preliminary review conducted within the 14-day period provided by the statute, the ICIG determined that the disclosure meets the statutory definition of an “urgent concern” and that there are reasonable grounds to believe the information relating to the urgent concern is credible.

The ICWPA requires you to forward all whistleblower transmittals from the ICIG to the congressional intelligence committees within a statutorily-mandated 7-day period.² You should

¹ 50 U.S.C. §3033(k)(5)(G).

² 50 U.S.C. §3033(k)(5)(A) requires that “upon receipt of a transmittal from the Inspector general...the Director *shall*, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate” (emphasis added). The statute does not provide the Director of National Intelligence with discretion to withhold a whistleblower disclosure.

have therefore transmitted the disclosure to the Committee, together with any comments you consider appropriate, no later than September 2, 2019.

In an unprecedented departure from past practice, you have not transmitted the disclosure to the Committee, nor have you notified the Committee of the fact of the disclosure or your decision not to transmit it to the Committee. Instead, in a manner neither permitted nor contemplated under the statute, you have taken the extraordinary step of overruling the independent determination of the ICIG and preventing the disclosure from reaching the Committee.

We do not know whether this decision to withhold the disclosure was made only by you, or whether it involved interference by other parties, including the White House. The Committee's recent experience has heightened concern of improper White House efforts to influence your office and the Intelligence Community. The failure to transmit to the Committee an urgent and credible whistleblower complaint, as required by law, raises the prospect that an urgent matter of a serious nature is being purposefully concealed from the Committee.

Consistent with your obligations under the statute, the whistleblower's complaint and the ICIG's determination must be transmitted to the Committee—their intended recipient—without delay and in their entirety. You also must furnish immediately to the whistleblower, through the ICIG, any necessary direction on appropriate security procedures for the whistleblower to contact the Committee directly.³ Finally, the Committee expects to receive your express assurance that all of the whistleblower protections included in the ICWPA will be afforded to the complainant in this case.

Absent immediate compliance with the above, the Committee will resort to compulsory process to compel production of the entire whistleblower complaint in complete and unaltered form, the ICIG's determination, as well as all records pertaining to you and your office's involvement in this matter, including any and all correspondence with other Executive Branch actors, to include the White House. The Committee will also require your appearance before the Committee to testify publicly about this matter.

The statutorily-protected right of Intelligence Community employees to make disclosures to Congress is sacrosanct and must remain insulated from politicization. The Committee will take all steps necessary to ensure this right is upheld.

³ Even if the ICIG had not determined that the disclosure constituted an urgent concern, the statute provides for an Intelligence Community whistleblower to contact the congressional intelligence committees directly after the whistleblower provides notice to the ICIG of his or her intent to contact the congressional intelligence committees directly, and obtains and follows direction from you, as the Acting Director of National Intelligence, on how to contact the congressional intelligence committees in accordance with appropriate security practices. 50 U.S.C. §3033(k)(5)(D)(ii). There is no basis for you to withhold guidance from a whistleblower to permit them to make a disclosure directly to the Committee.

I look forward to receiving the complaint in full immediately, together with any comments you consider appropriate.

Sincerely,

A handwritten signature in blue ink, appearing to read "Adam B. Schiff".

Adam B. Schiff
Chairman